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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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10 RICHARD REES, et.al,

CASE NO. CV-F-05-00297 LJO SMS

11 Plaintiff,

12 vs.

**ORDER ON CLASS COUNSEL'S MOTION
TO REMOVE AND REPLACE CLASS
REPRESENTATIVES**

13 SOUZA'S MILK TRANSPORTATION,
14 CO., et al.,

15 Defendants.
_____ /

16 Pursuant to an ex parte application filed on January 14, 2009, class counsel seeks to remove and
17 replace the class representatives plaintiffs Richard Rees and Robert Winters. The class representatives
18 submitted a response to the ex parte application, which was filed on January 22, 2008. (Doc. 193.) Class
19 counsel filed a reply on January 30, 2009. Trial is set for February 23, 2009 and the pretrial conference
20 is set February 9, 2009.

21 The motion came on for hearing on February 3, 2009 at 8:30 a.m. in Department 4 of the above-
22 entitled Court. Class representatives Richard Rees and Robert Winters appeared at the hearing. Class
23 Counsel Jerry Budin appeared at the hearing. Defense counsel David Dixon appeared at the hearing.
24 Having considered the moving, opposition, and reply papers, as well as the arguments of the parties and
25 the Court's file, the Court issues the following order.

26 For the reasons stated on the record at the hearing on February 3, 2009, the Court DENIES the
27 motion to remove and replace the class representatives without prejudice. The Court incorporates by
28 reference the reasons for the denial, as stated in open court and on the record.

1 The trial date and the pretrial conference are VACATED. The Court SETS a status hearing on
2 March 26, 2009 at 8:15 a.m. The parties are encouraged to appear at the hearing by arranging a one line
3 conference call and telephoning the Court at 559-499-5680. Class Counsel shall be responsible for
4 arranging the conference call and is directed to use a conferencing service such as AT&T, Court Call
5 or a similar service.

6 Class Counsel is directed to serve a copy of this order on Richard Rees and on Robert Winters
7 and file a proof of service.

8
9 IT IS SO ORDERED.

10 **Dated: February 3, 2009**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE